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## DIGEST OF OTHER RECENT VIRGINIA DECISIONS.

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Supreme Court of Appeals.

Note.—In this department we give the syllabus of every case decided by the Virginia Supreme Court of Appeals, except of such cases as are reported in full.

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OVERSTREET et al. v. GRIFFIN.

Sept. 11, 1916.

[89 S. E. 879.]

**Corporations (§ 548 (9)\*)—Enforcement of Judgment Lien—Title of Judgment Debtor—Sufficiency of Evidence.**—In a suit to subject land to the lien of judgments obtained against a corporation, where the defendants claimed title under a deed from the directors of the company after its insolvency, evidence held insufficient to show that the judgment debtor had only held the legal title to the land when the judgments were recorded, and that its directors were the equitable owners.

[Ed. Note.—For other cases, see Corporations, Dec. Dig. § 548 (9).\* 3 Va.-W. Va. Enc. Dig. 580.]

Appeal from Circuit Court, Bedford County.

Suit by Malcolm Griffin against Overstreet and others. Decree for complainant, and defendants appeal. Affirmed.

*Wm. Eubank*, of Bedford City, for appellants.

*S. V. Kemp*, of Lynchburg, for appellee.

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WORLEY v. MATHIESON ALKALI.

Sept. 11, 1916.

[89 S. E. 880.]

**1. Appeal and Error (§ 362 (2)\*)—Writ of Error—Sufficiency.**—A petition for a writ of error is in the nature of a pleading, and must state clearly and distinctly the errors relied on to reverse the judgment.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. § 1961; Dec. Dig. § 362 (2).\* 1 Va.-W. Va. Enc. Dig. 502.]

**2. Waters and Water Courses (§ 69\*)—Natural Course—Pollution—Negligence—Evidence.**—Where defendant company had employed every means known to the business to prevent discharge of noxious matters into a stream, it was not chargeable with negligence on oc-

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

casional discharge of such matters with consequent pollution of the waters and damage to complainant's stock.

[Ed. Note.—For other cases, see *Waters and Water Courses*, Cent. Dig. §§ 60, 61; Dec. Dig. § 69.\* 13 Va.-W. Va. Enc. Dig. 683.]

**3. Limitation of Actions (§ 55 (6)\*)—Negligence—Continuing Damage.**—Where defendant company's plant for extraction of salts was constructed in 1895 as a permanent plant, and any damage resulting from discharge of noxious matters into the water course began with the initial operation and was continuous and a permanent nuisance, complainant, having failed to sue for the entire damage, past and future, within five years of the time of accrual of the cause in 1895, was barred by the statute of limitations.

[Ed. Note.—For other cases, see *Limitation of Actions*, Cent. Dig. § 304; Dec. Dig. § 55 (6).\* 14 Va.-W. Va. Enc. Dig. 661.]

Error to Circuit Court, Smyth County.

Action by one Worley against the Mathieson Alkali Works. Judgment for defendant, and complainant brings error. Affirmed.

*L. P. Summers*, of Abingdon, for plaintiff in error.

*White, Penn, Hutton & Penn*, of Abingdon, for defendant in error.

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SUTHERLAND et ux. v. MUNSEY et al.

Sept. 11, 1916.

[89 S. E. 882.]

**1. Deeds (§ 6\*)—What Constitutes—Contracts.**—A written instrument recited that complainants, in consideration of a sum paid and further sums to be paid, bargained and sold and did both grant, bargain, sell, and convey described land, with covenants of general warranty, title to be free from all incumbrances. The instrument further provided for subsequent deed from complainants to defendant. Held that, despite the use of the words "grant, bargained, and sold," the agreement, showing that a formal deed was to be executed, was not a conveyance, but was only a contract; for the intention of the parties will govern.

[Ed. Note.—For other cases, see *Deeds*, Cent. Dig. § 6; Dec. Dig. § 6.\* 4 Va.-W. Va. Enc. Dig. 371.]

**2. Frauds, Statute of (§ 115 (5)\*)—Signing—"Signature."**—As a signature consists both of the act of writing the party's name and of the intention of finally authenticating the instrument, defendants, who prepared the agreement which in the body thereof recited their names for purposes of identification, cannot be deemed to have signed the

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.